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EXAMINER	
TAYLOR, JOSHUA D	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/806,767	NISHIKAWA ET AL.	
	Examiner	Art Unit	
	JOSHUA TAYLOR	2426	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *19 August 2009*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-20* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-20* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *23 March 2004* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *7/2/2009, 8/19/2009, 8/24/2009*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1. This Office Action is in response to a Request for Continued Examination entered August 19, 2009 for the patent application 10/806,767 filed on March 23, 2004.

2. The Final Office Action of May 19, 2009 is fully incorporated into this Office Action by reference.

Status of Claims

3. Claims 1-20 are pending.

Specification

4. The disclosure is objected to because of the following: The terms "smart filter" and "enhanced suggestion engine" do not appear in the specification, but are used in the amended claim language to describe elements of the invention.

Appropriate correction is required.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. Claims 1-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sie et al. (Pub. No.: US 2003/0233656) in view of Fries et al. (Pub. No.: US 2004/0078807), and further in view of McCoskey et al. (Pub. No.: US 2003/0028889).

Examiner's Note (EN): ¶10. below applies.

Regarding claim 1, Sie et al. disclose **a method of selecting content by way of an interactive programming guide apparatus** (Figs. 11-15, paragraph [0043], lines 12-15, paragraph [0058], lines 3-5) **comprising the steps of: providing access to characterizing descriptors as individually correspond to a plurality of discrete selectable items of audio/video content** (paragraph [0047], lines 1-4. Sie discloses that the guide database has characterizing descriptors such as program descriptions, ratings, advertisements, schedule times, etc.)**, providing at least one selection criterion** (Fig. 9, element 920, paragraph [0088], lines 6-12. Sie discloses that a user can manually enter a selection criteria, such as a search term.)**; applying the at least one selection criterion with respect to the characterizing descriptors of a first plurality of the discrete selectable items of audio/video content and a second plurality of the discrete selectable items of audio/video content to provide a resultant**

selection of the first plurality of discrete selectable items of audio/video content and the second plurality of the discrete selectable items of audio/video content (paragraph [0090], lines 1-4. Sie discloses that the guides are customized according to the user preferences. Since in this part of the claim the first and second plurality are not from different service providers, they can be read to be different channels, for example.)**; displaying programming guide information comprising information regarding at least a portion of the resultant selection** (Fig. 15, paragraph [0110], Fig. 11, paragraph [0094]. Sie discloses a linear schedule customized for the user.)**; supporting a programming guide navigation** (Fig. 11, paragraph [0094], lines 1-3)**; reviewing and browsing the information regarding the at least one portion of the resultant selection** (Fig. 11, paragraph [0094], lines 3-15, paragraphs [0095]-[0096]. Sie discloses that the guide can be customized by the preferences of the user.)**; if selecting a particular item of the plurality of discrete selectable items, providing a selection response** (paragraph [0097], lines 1-3. If a user selects a program, that program can be played)**; and if not selecting a particular item of the plurality of discrete selectable items, returning to the supporting step** (paragraph [0096]. The user can browse through the programs.)**.**

However, Sie does not disclose **a multi-source interactive programming guide apparatus, wherein the first plurality of the discrete selectable items of audio/video content differ from the second plurality of the discrete selectable items of audio/video content with respect to a primary transmission service provider.** However, Fries does (Fig. 4, paragraphs [0098] and [0100], lines 6-9. Fries shows 2 or 3 programs for each of Cable TV, Sat TV, Local TV, and VoD TV, which constitutes a plurality of discrete selectable items). Fries discloses that "with the exemplary EPG manager, the viewer is freed from the repetitive and confusing task

of……conventional approaches, [when] a viewer must browse (or search) each EPG separately (paragraph [0105], lines 1-2 and paragraph [0104], lines 1-2)." Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to use the aggregated EPG of Fries to enhance the method of Sie so that a user can use the selection criteria of programs from multiple transmission service providers to form a profile and more easily access programs that may be of interest. This would have been a highly desirable feature, as it would allow users who had access to various different service providers to still efficiently sort through incoming program data.

Neither Sie nor Fries explicitly disclose all of the following, but in analogous art, McCoskey discloses **providing at least one smart filter for facilitating determination of a particular one of the discrete selectable items of data, the at least one smart filter providing step comprising providing an enhanced suggestion engine for making at least one recommendation based on at least one parameter selected from a group consisting essentially of a content nature uniqueness, a viewer identification, and a keyword** (paras. [0044]-[0045], Fig. 6, paras. [0064], [0081] and [0081]-[0089], Figs. 18a and 18b. McCoskey uses, among other things, a keyword to suggest programming to viewers.)**, the at least one smart filter providing step comprising providing each at least one smart filter being customizable for each at least one user** (paras. [0081]-[0089]. A user can customize the search by changing search criteria.)**, wherein the at least one smart filter simultaneously considers content across a plurality of media** (para. [0017])**, thereby providing a coordinated joint display comprising a plurality of integrated results, the plurality of integrated results comprising an aggregate pool of candidate viewing choices being reducible on a basis of**

filter selection criteria from at least one element selected from a group consisting essentially of a plurality of different sources and a plurality of different formats (Fig. 18b, paras. [0063] and [0087]). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Sie and Fries to include the enhanced suggestion techniques as taught by McCoskey, as this would have allowed users to further narrow their search for content, as well as expand their options in terms of from where said content was being received.

Regarding claim 2, the combined teaching of Sie, Fries and McCoskey discloses **the method of claim 1,** and Sie discloses **further comprising: responding to a remote control by scrolling through the programming guide information comprising information regarding at least a portion of the resultant selection** (paragraph [0055], lines 6-9, Fig. 11, paragraph [0096]).

Regarding claim 3, the combined teaching of Sie, Fries and McCoskey discloses **the method of claim 1,** and Sie discloses **further comprising: detecting user selection of a particular one of the plurality of discrete selectable items of audio/visual content** (paragraph [0104], lines 1-4, Fig. 11, paragraph [0096]).

Regarding claim 4, the combined teaching of Sie, Fries and McCoskey discloses **the method of claim 1,** and Sie discloses **further comprising: a user database wherein providing at least one selection criterion further comprises using information from the user database to characterize the at least one selection criterion to be provided** (paragraph [0087]. Sie teaches that user information can be used to characterize selection criterion.).

Regarding claim 5, the combined teaching of Sie, Fries and McCoskey discloses **the method of claim 4,** and Sie further discloses **wherein using information from the user database to identify the at least one selection criterion to be provided comprises: accessing information from the user database to discern preferences of a particular user; accessing the characterizing descriptors as individually correspond to a plurality of discrete selectable items of audio/video content; comparing the preferences of a particular user to the characterizing descriptors of the first plurality of discrete selectable items of audio/video content and the second plurality of discrete selectable items of audio/video content** (paragraph [0088]-[0090]).

Regarding claim 6, the combined teaching of Sie, Fries and McCoskey discloses **the method of claim 4,** and Sie discloses **further comprising: responding to a remote control by selecting a particular one of the plurality of discrete selectable items of audio/visual content** (paragraph [0055], lines 6-9).

Regarding claim 7, the combined teaching of Sie, Fries and McCoskey discloses **the method of claim 1,** and Sie further discloses **wherein providing at least one selection criterion comprises: supplying at least one user-defined keyword; and matching the at least one user-defined keyword with at least one of the characterizing descriptors as individually correspond to a plurality of discrete selectable items of audio/video content** (paragraph [0082], lines 7-15).

Regarding claims 8 and 13, Sie et al. disclose **an interactive programming guide apparatus, and a method of providing an interactive programming guide apparatus** (Figs.

11-15, paragraph [0043], lines 12-15, paragraph [0058], lines 3-5) **comprising: a data processing unit comprising at least one element selected from a group consisting essentially of a fixed-purpose dedicated platform, a partially-programmable platform, a cable, and a satellite set-top box** (Fig. 2A, paragraph [0054])**; providing access to a plurality of characterizing descriptors, each of which individually correspond to a plurality of discrete selectable items of audio/video content** (paragraph [0047], lines 1-4. Sie discloses that the guide database has characterizing descriptors such as program descriptions, ratings, advertisements, schedule times, etc.)**, providing at least one selection criterion** (Fig. 9, element 920, paragraph [0088], lines 6-12. Sie discloses that a user can manually enter a selection criteria, such as a search term.)**; applying the at least one selection criterion with respect to the characterizing descriptors of a first plurality of the discrete selectable items of audio/video content and a second plurality of the discrete selectable items of audio/video content to provide a resultant selection of the first plurality of discrete selectable items of audio/video content and the second plurality of the discrete selectable items of audio/video content** (paragraph [0090], lines 1-4. Sie discloses that the guides are customized according to the user preferences. Since in this part of the claim the first and second plurality are not from different service providers, they can be read to be different channels, for example.)**; and displaying programming guide information comprising information regarding at least a portion of the resultant selection** (Fig. 15, paragraph [0110], Fig. 11, paragraph [0094]. Sie discloses a linear schedule customized for the user.)**, and a support programming guide navigation** (Fig. 11, paragraph [0094], lines 1-3)**, wherein the data processing unit utilizes the**

plurality of characterizing descriptors, the control circuitry, and the support programming guide navigation (Fig. 2A, paragraph [0054]).

However, Sie does not disclose **a multi-source interactive programming guide apparatus, wherein the first plurality of the discrete selectable items of audio/video content differ from the second plurality of the discrete selectable items of audio/video content with respect to a primary transmission service provider.** However, Fries does (Fig. 4, paragraphs [0098] and [0100], lines 6-9. Fries shows 2 or 3 programs for each of Cable TV, Sat TV, Local TV, and VoD TV, which constitutes a plurality of discrete selectable items). Fries discloses that "with the exemplary EPG manager, the viewer is freed from the repetitive and confusing task of……conventional approaches, [when] a viewer must browse (or search) each EPG separately (paragraph [0105], lines 1-2 and paragraph [0104], lines 1-2)." Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to use the aggregated EPG of Fries to enhance the method of Sie so that a user can use the selection criteria of programs from multiple transmission service providers to form a profile and more easily access programs that may be of interest. This would have been a highly desirable feature, as it would allow users who had access to various different service providers to still efficiently sort through incoming program data.

Neither Sie nor Fries explicitly disclose all of the following, but in analogous art, McCoskey discloses **providing at least one smart filter for facilitating determination of a particular one of the discrete selectable items of data, the at least one smart filter providing step comprising providing an enhanced suggestion engine for making at least one recommendation based on at least one parameter selected from a group consisting**

essentially of a content nature uniqueness, a viewer identification and a keyword (paras. [0044]-[0045], Fig. 6, paras. [0064], [0081] and [0081]-[0089], Figs. 18a and 18b. McCoskey uses, among other things, a keyword to suggest programming to viewers.)**, the at least one smart filter providing step comprising providing each at least one smart filter being customizable for each at least one user** (paras. [0081]-[0089]. A user can customize the search by changing search criteria.)**, wherein the at least one smart filter simultaneously considers content across a plurality of media** (para. [0017])**, thereby providing a coordinated joint display comprising a plurality of integrated results, the plurality of integrated results comprising an aggregate pool of candidate viewing choices being reducible on a basis of filter selection criteria from at least one element selected from a group consisting essentially of a plurality of different sources and a plurality of different formats** (Fig. 18b, paras. [0063] and [0087])**.** It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Sie and Fries to include the enhanced suggestion techniques as taught by McCoskey, as this would have allowed users to further narrow their search for content, as well as expand their options in terms of from where said content was being received.

Regarding claim 9, the combined teaching of Sie, Fries and McCoskey discloses **the interactive programming guide of claim 8,** and Sie discloses **wherein the control circuitry further comprises filter means for comparing the at least one selection criterion with at least some of the characterizing descriptors of the first plurality of discrete selectable items of audio/video content and the second plurality of discrete selectable items of audio/video content to provide the resultant selection** (paragraph [0088], lines 6-12)**.**

Regarding claim 10, the combined teaching of Sie, Fries and McCoskey discloses **the interactive programming guide of claim 8,** and Sie further discloses **wherein the at least one selection criterion is based, at least in part, upon a preference of a present viewer of the interactive programming guide** (paragraph [0090], lines 1-9).

Regarding claim 11, the combined teaching of Sie, Fries and McCoskey discloses **the interactive programming guide of claim 8,** and Sie further discloses **wherein the at least one selection criterion comprises a user-defined keyword** (paragraph [0088], lines 6-9).

Regarding claim 12, the combined teaching of Sie, Fries and McCoskey discloses **the interactive programming guide of claim 8,** and Sie further discloses **wherein the at least one selection criterion is retained in a database** (paragraph [0049], Lines 3-5).

Regarding claim 14, the combined teaching of Sie, Fries and McCoskey discloses **the method of claim 13,** and Sie further discloses **wherein providing at least one selection criterion that corresponds to a given individual further comprises ascertaining an identity of a present viewer** (paragraph [0090], lines 6-9).

Regarding claim 15, the combined teaching of Sie, Fries and McCoskey discloses **the method of claim 14,** and Sie further discloses **wherein providing at least one selection criterion that corresponds to a given individual further comprises using the identity to recall at least one previously stored selection criterion** (paragraph [0091], lines 4-7).

Regarding claim 16, the combined teaching of Sie, Fries and McCoskey discloses **the method of claim 1,** and Sie discloses **wherein displaying programming guide information further comprises displaying programming guide information comprising information**

regarding at least a portion of the resultant selection, wherein the resultant selection includes two or more discrete selectable items of audio/video content from at least one of the first plurality of discrete selectable items of audio/video content and the second plurality of discrete selectable items of audio/video content (Fig. 15, paragraph [0110], Fig. 11, paragraph [0094]).

Regarding claim 17, the combined teaching of Sie, Fries and McCoskey discloses **the method of claim 13,** and Sie discloses **wherein displaying programming guide information further comprises displaying programming guide information comprising information regarding at least a portion of the resultant selection, wherein the resultant selection includes two or more discrete selectable items of audio/video content from at least one of the first plurality of discrete selectable audio/visual programs and the second plurality of discrete selectable audio/visual programs** (Fig. 15, paragraph [0110], Fig. 11, paragraph [0094]).

Regarding claim 18, the combined teaching of Sie, Fries and McCoskey discloses **the method of claim 1,** and Sie discloses **further comprising: responding to a remote control by scrolling through the programming guide information comprising information regarding at least a portion of the resultant selection** (Fig. 11, paragraph [0096], lines 1-3)**; detecting user selection of a particular one of the plurality of discrete selectable items of audio/visual content** (Fig. 11, paragraph [0096], lines 3-9)**; providing a user database wherein providing at least one selection criterion further comprises using information from the user database to characterize the at least one selection criterion to be provided** (paragraph [0087]. Sie teaches that user information can be used to characterize selection criterion.)**; and responding to**

a remote control by selecting a particular one of the plurality of discrete selectable items of audio/visual content (Fig. 11, paragraph [0097], lines 1-3)**, wherein using information from the user database to identify the at least one selection criterion to be provided comprises: accessing information from the user database to discern preferences of a particular user; accessing the characterizing descriptors as individually correspond to a plurality of discrete selectable items of audio/video content; and comparing the preferences of a particular user to the characterizing descriptors of the first plurality of discrete selectable items of audio/video content and the second plurality of discrete selectable items of audio/video content** (paragraph [0088]-[0090])**, wherein providing at least one selection criterion comprises: supplying at least one user-defined keyword** (paragraph [0082], lines 7-15)**; and matching the at least one user-defined keyword with at least one of the characterizing descriptors as individually correspond to a plurality of discrete selectable items of audio/video content** (paragraph [0088])**, and wherein displaying programming guide information further comprises displaying programming guide information comprising information regarding at least a portion of the resultant selection, wherein the resultant selection includes two or more discrete selectable items of audio/video content from at least one of the first plurality of discrete selectable items of audio/video content and the second plurality of discrete selectable items of audio/video content** (Fig. 11, paragraph [0094])**.**

Regarding claim 19, the combined teaching of Sie, Fries and McCoskey discloses **the interactive programming guide of claim 8,** and Sie discloses **wherein the control circuitry further comprises filter means for comparing the at least one selection criterion with at**

least some of the characterizing descriptors of the first plurality of discrete selectable items of audio/video content and the second plurality of discrete selectable items of audio/video content to provide the resultant selection (paragraph [0088], lines 6-12)**, wherein the at least one selection criterion is based, at least in part, upon a preference of a present viewer of the interactive programming guide** (paragraph [0090], lines 1-9)**, wherein the at least one selection criterion comprises a user-defined keyword** (paragraph [0088], lines 6-9)**, and wherein the at least one selection criterion is retained in a database** (paragraph [0049], lines 3-5)**.**

Regarding claim 20, the combined teaching of Sie, Fries and McCoskey discloses **the method of claim 13,** and Sie discloses **wherein providing at least one selection criterion that corresponds to a given individual further comprises ascertaining an identity of a present viewer** (paragraph [0090], lines 6-9)**, wherein providing at least one selection criterion that corresponds to a given individual further comprises using the identity to recall at least one previously stored selection criterion** (paragraph [0091], lines 4-7)**, and wherein displaying programming guide information further comprises displaying programming guide information comprising information regarding at least a portion of the resultant selection, wherein the resultant selection includes two or more discrete selectable items of audio/video content from at least one of the first plurality of discrete selectable audio/visual programs and the second plurality of discrete selectable audio/visual programs** (Fig. 15, paragraph [0110], Fig. 11, paragraph [0094])**.**

Response to Arguments

6. Applicant's arguments with respect to claims 1-20 have been considered but are moot in view of the new grounds of rejection.

Examination Considerations

7. The claims and only the claims form the metes and bounds of the invention. "Office personnel are to give the claims their broadest reasonable interpretation in light of the supporting disclosure. *In re Morris,* 127 F.3d 1048, 1054-55, 44USPQ2d 1023, 1027-28 (Fed. Cir. 1997). Limitations appearing in the specification but not recited in the claim are not read into the claim. *In re Prater*, 415 F.2d, 1393, 1404-05, 162 USPQ 541, 550-551 (CCPA 1969)" (MPEP p 2100-8, c 2, l 45-48; p 2100-9, c 1, l 1-4). The Examiner has full latitude to interpret each claim in the broadest reasonable sense. Examiner will reference prior art using terminology familiar to one of ordinary skill in the art. Such an approach is broad in concept and can be either explicit or implicit in meaning.

8. Examiner's Notes are provided with the cited references to prior art to assist the applicant to better understand the nature of the prior art, application of such prior art and, as appropriate, to further indicate other prior art that maybe applied in other office actions. Such comments are entirely consistent with the intent and spirit of compact prosecution. However, and unless otherwise stated, the Examiner's Notes are not prior art but a link to prior art that one of ordinary skill in the art would find inherently appropriate.

9. Unless otherwise annotated, Examiner's statements are to be interpreted in reference to that of one of ordinary skill in the art. Statements made in reference to the condition of the disclosure constitute, on the face of it, the basis and such would be obvious to one of ordinary skill in the art, establishing thereby an inherent prima facie statement.

10. Examiner's Opinion: ¶¶ 7.-9. apply. The Examiner has full latitude to interpret each claim in the broadest reasonable sense.

Conclusion

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to JOSHUA TAYLOR whose telephone number is (571) 270-3755. The examiner can normally be reached on 8am-5pm, M-F, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Hirl can be reached on (571) 272-3685. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Josh Taylor/

Examiner, Art Unit 2426

/Joseph P. Hirl/

Supervisory Patent Examiner, Art Unit 2426

October 17, 2009